

IN THE MATTER OF
THE APPLICATION OF
EQUITABLE MORTGAGE GROUP, INC.
MORTGAGE LENDER
LICENSEE

BEFORE THE COMMISSIONER
OF
FINANCIAL REGULATION
Case No. DFR-EU-2007-171

* * * * *

STATEMENT OF THE CASE

The hearing on the above captioned matter was held on April 1, 2008, and heard by the Deputy Commissioner of Financial Regulation, Joseph E. Rooney ("Deputy Commissioner"). This matter was scheduled for a hearing as a result of a charge letter issued by the Office of the Commissioner of Financial Regulation to Equitable Mortgage Group, Inc. ("Respondent"), a mortgage lender licensed pursuant to Md. Code Ann., Fin. Inst. ("FI") § 11-501 *et seq.* [CFR 2]. The charge letter alleges that Respondent has violated FI § 11-517(a)(4) and Commercial Law Article ("CL") § 12-805(d) in connection with fees it collected pursuant to certain broker agreements.

The Applicant did not appear, but proper service of the notice of the hearing being established, the hearing proceeded pursuant to COMAR 09.01.02.09. Kris King, Assistant Attorney General, appeared as presenter of evidence on behalf of the Office of the Commissioner. Christopher J. Young, Assistant Attorney General, served as counsel to the Deputy Commissioner. The proceedings were electronically recorded.

SUMMARY OF THE EVIDENCE

Exhibits

The Office of the Commissioner of Financial Regulation submitted the following documents which were admitted into evidence:

CFR 1-Hearing notice dated January 28, 2008 with certified-mail receipt.

CFR 2-Charge letter dated December 11, 2007.

CFR 3-Licensing information printout for Respondent from Commissioner's computer database.

CFR 4-Examiner's Findings for examination conducted on September 14, 2006.

CFR 5-Assorted loan documents for borrower [REDACTED].

CFR 6-Assorted loan documents for borrowers [REDACTED] and [REDACTED].

CFR 7-Assorted loan documents for borrower [REDACTED].

CFR 8-Managers Questionnaire for Equitable Mortgage Group, Inc. dated September 14, 2006.

FINDINGS OF FACT

From the testimony offered by Malynda Tyler, Financial Regulation Examiner, and the exhibits presented, and with the opportunity to observe the demeanor of the witness and to assess her credibility, the Deputy Commissioner finds the relevant facts to be these:

1. During all relevant periods, Respondent was a duly licensed mortgage lender under 11-501 *et seq.* [CFR 3].
2. Darren Soodak is the president of Respondent. [CFR 8]; the address of Respondent is 7305 Baltimore Avenue, Suite 207, College Park, Maryland 20704. [CFR 3 and 8].
3. Respondent received proper notice of the hearing as evidenced by the completed certified mail receipt attached to the hearing notice; the notice was sent via certified mail to Mr. Darren Soodak, Equitable Mortgage Group, Inc., at 7305 Baltimore Avenue, Suite 207, College Park, Maryland 20704 and a signed certified-mail receipt verifies delivery of the notice. [CFR 1].
4. During 2005, Respondent collected impermissible broker fees while acting as a Maryland mortgage broker in the three transactions set forth below:
 - a. In or around October, 2005, the borrower [REDACTED] made application for a mortgage loan in the amount of \$100,000.00. The related broker agreement captioned "Agreement

to Obtain Loan Commitment," dated October 7, 2005, specified a broker fee in the amount of \$2,500.

According to the related settlement statement, the borrower was charged by and actually paid to Respondent a broker fee of \$2,995.00. Hence the borrower paid \$495.00 in impermissible fees.

[CFR 5; Testimony of Malynda Tyler, Financial Regulation Examiner].

b. On or about December 20, 2005, the borrowers [REDACTED] and [REDACTED] made application for a mortgage loan in the amount of \$202,500.00. The related broker agreement captioned "Agreement to Obtain Loan Commitment," dated December 20, 2005 specified a broker fee in the amount of \$4,050.00. According to the related settlement statement, the borrower was charged by and actually paid to Respondent a broker fee of \$4,771.33. Hence the borrower paid 721.33 in impermissible fees. [CFR 6; Testimony of Malynda Tyler, Financial Regulation Examiner].

c. In or around March of 2005, the borrower [REDACTED] made application for a loan in the amount of \$120,000.00. The related broker agreement captioned "Agreement to Obtain Loan Commitment," was not dated. According to the related settlement statement, the borrower was charged by and paid to Respondent a broker fee in the amount of 4,895.00. [CFR 7; Testimony of Malynda Tyler, Financial Regulation Examiner].

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Deputy Commissioner concludes that Respondent has violated CL § 12-805(d) and FI § 11-517(a)(4).

CL § 12-805(d) provides that:

- (1) A finder's fee may not be charged unless it is pursuant to a written agreement between the mortgage broker and the borrower which is separate and distinct from any other document.
- (2) The terms of the proposed agreement shall be disclosed to the borrower before the mortgage broker undertakes to assist the borrower in obtaining a loan or advance of money and shall specify the amount of the finder's fee.

(3) A copy of the agreement, dated and signed by the mortgage broker and the borrower, shall be provided to the borrower within 10 business days after the date the loan application is completed.

FI § 11-517(a)(4) provides:

Suspension or revocation of license—In general.—Subject to the hearing provisions of § 11-518 of this subtitle, the Commissioner may suspend or revoke the license of any licensee if the licensee or any owner, director, officer, member, partner, stockholder, employee, or agent of the licensee:

(4) Violates any provision of this subtitle or any rule or regulation adopted under it or any other law regulating mortgage loan lending in the State.

In this case, the Deputy Commissioner has concluded that in connection with the Harris and Tyree loan overcharges, Respondent charged and collected finders fees that were not pursuant to a written agreement as required by CL § 12-805(d)(1) and (2). Moreover, in connection with the McDowell loan, by failing to date the broker agreement, Respondent charged and a collected finders fee in violation of CL § 12-805(d)(3). Respondent violated FI § 11-517(a)(4) by virtue of the foregoing violations.

FINAL ORDER

In consideration of the foregoing Findings of Fact and Conclusions of Law, it is this 21st day of April, 2008, hereby **ORDERED** that:

Pursuant to CL 12-807, Respondent, Equitable Mortgage Group, Inc shall, within thirty days of the date of this Final Order, refund the amounts to the borrowers listed below, as follows:

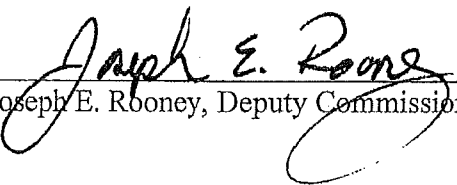
- A. [REDACTED]: Refund amount--\$2,995.00.
- B. [REDACTED] and [REDACTED]: Refund amount-- \$4,771.33.
- C. [REDACTED]: Refund amount--4,895.00.

The foregoing refunds shall be mailed by the Respondent to the respective borrowers via U.S. First Class Mail to the last known address of the borrowers on record with the Respondent. In the event that the mailing of a payment is returned as undeliverable by the U.S. Postal Service, the Respondent shall, within five (5) business days, notify the Office of the Commissioner in writing and await further instruction as to the means of the making of said payment. Upon the making of a required payment in this matter, the Respondent shall furnish evidence of the making of said payment to the Office of the Commissioner within fifteen (15) days, which evidence shall consist of the original cancelled check for said payment, or a copy of the front and the back of the cancelled check for said payment.

Pursuant to State Govt. Art., Section 10-222, any party who is aggrieved by the Commissioner's decision, may file a petition for judicial review with the Circuit Court for the county where any party resides or has a principal place of business. Such petition must be filed within 30 days after Applicant's receipt of this Order (Md. Rule 7-203). The filing of a petition for judicial review does not automatically stay the enforcement of the Final Order.

COMMISSIONER OF FINANCIAL REGULATION

By:



Joseph E. Rooney, Deputy Commissioner